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APPLICATION NO. FILING DATE		ILING DATE	FIRST NAMED INVENTOR	ATTORNEY I	OOCKET NO.	CONFIRMATION NO.	
10/811,225 03/25/2004		03/25/2004	Per Harrie	4050-68201-01 8998		8998	
24197	7590	08/26/2005			EXAMINER		
KLARQUIST SPARKMAN, LLP					AVILA, STEPHEN P		
121 SW SAI SUITE 1600		REET		. ART	UNIT	PAPER NUMBER	
PORTLAND, OR 97204				36	17		
			•	DATE MAII I	DATE MAILED: 08/26/2005		

Please find below and/or attached an Office communication concerning this application or proceeding.

1) ⊠ Responsive to communication(s) filed on 11 July 2005. 2a) ☐ This action is FINAL. 2b) ⊠ This action is non-final. 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) ☒ Claim(s) 1-11 and 14-22 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) ☐ Claim(s) is/are allowed. 6) ☒ Claim(s) 1-11 and 14-22 is/are rejected. 7) ☐ Claim(s) is/are objected to. 8) ☐ Claim(s) are subject to restriction and/or election requirement.	Ve									
Examiner Stephen Avills 3617 3		Application No.	Appl	icant(s)						
Stephen Avila Stephen Avila		10/811,225	HAR	RIE ET AL.						
- The MAILING DATE of this communication appears on the cover sheet with the correspondence address → Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ② MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Exercition for may be available under the provisions of JCPR 1.136(a). In no event, however, may a righty be timely filed If the period for righty specified above is less than thisty (Q0) days, a upply within the statutory minimum of thisty (Q0) days will be considered timely. If the period for righty specified above is less than thisty (Q0) days, a upply within the statutory minimum of thisty (Q0) days will be considered timely. If the period for righty specified above is less than thisty (Q0) days, a upply within the statutory minimum of thisty (Q0) days will be considered timely. If the period for righty specified above is less than thisty (Q0) days, a upply within the statutory minimum of thisty (Q0) days will be considered timely. If the period for righty specified above is less than thisty (Q0) days, a upply day of the statutory minimum of thisty (Q0) days will be considered timely. If the period for righty specified above is less than thisty (Q0) days, a upply with the statutory minimum of thisty (Q0) days will be considered timely. If the period for righty specified above is less than the righty days and the statutory minimum of thisty (Q0) days will be considered timely. If the period for righty specified above is less than thisty (Q0) days, and a period will be communication. Application of Claims A) Claim (s) If the specified above is less than thisty (Q0) days and the specified above	Office Action Summary	Examiner	Art U	Jnit I						
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A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time maybe available under the provisions of 3 CFR 1.35(g). In no event, however, may a right be timoly filed. Extensions of time maybe available under the provisions of 3 CFR 1.35(g). In no event, however, may a right be timoly filed. If the period for right specified above is listed shart hirty (30) days, a reply within the adulatory minimum of thinty (30) days will be considered timely. If No period for right specified above is listed shart hirty (30) days, a reply within the substancy period will apply and will expire \$15 (8) MONTH'S from the mailing date of this communication (5) in 100 period to right yall, by adulation, actives the application to become ABANDONED (35 V.5.C. § 135). Status 1) Responsive to communication(s) filed on 11 July 2005. 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-11 and 14-22 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5 Claim(s) is/are allowed. 6) Claim(s) is/are allowed. 6) Claim(s) is/are allowed. 6) Claim(s) is/are allowed. 7 Claim(s) is/are allowed. 8) Claim(s) is/are objected to by the Examiner. 10) The drawing(s) filed on 19 July 2004 Is/are: a) accepted or b) objected to by the Examiner. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on 19 July 2004 Is/are: a) accepted or b) objected to by the Examiner. Application Papers 9) All b) Some *Collamonal Bureau (PCT Rule 17.2(a)). *See the attached detailed Office action for a list of the certified copies of the priority documents have been received. 2 Certified copies of the priority documents have been received in this Nationa		ears on the cover sheet with the	corres	ondence ad	dress					
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Application/Control Number: 10/811,225

Art Unit: 3617

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-11 and 14-22 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-18 of U.S. Patent No. 6,712,017. Although the conflicting claims are not identical, they are not patentably distinct from each other because the differences in the claimed subject matter would have been obvious to a person of ordinary skill in the art at the time the invention was made.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Avila whose telephone number is 571-272-6678. The examiner can normally be reached on Monday to Thursday from 7 AM to 3 PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

> Stephen Avila **Primary Examiner**

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